IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
C.A.NO.5949/2005 IN F.A.NO.1835/2006

The State of Maharashtra ...Applicant

vs.

Ambo M.Mhatre (deceased through L.Rs.)
Rama M. Mhatre and others ...Respondents

WITH
C.A.NO.5951/2005 IN F.A.NO.1836/2006

The State of Maharashtra ...Applicant

vs.

Vithoba Balkrishna Gaikwad & Ors. ...Respondents

CORAM: A.S.OKA, J.
DATED: AUGUST 2, 2006.

P.C.:

1. Rule. Shri Surana waives service for Respondent. Taken up for hearing forthwith.

2. In both the Appeals the Applicants have taken exception to the Judgment and Award made under section 28-A(3) of the Land Acquisition Act, 1894. The Award relates to the lands situated at Panvel, Taluka Panvel District Raigad which were notified for acquisition on 3rd February 1970 for public purpose of New Bombay.

3. The Reference Court has awarded market value of Rs.27/- per sq.meter.

4. The Division Bench of this Court in case of Nama Padu Hudar and others Vs. State of Maharashtra in First Appeal

No.754 of 1986 decided on 25th and 26th February 1993 has dealt with the Appeals arising out of the Awards made under section 18 of the Land Acquisition Act, 1894 in respect of the lands situated at Village Panvel and village Kamothe in Taluka Panvel. The said lands were also acquired under notification dated 3rd February 1970 for the same public purpose. Depending upon the distance of the acquired lands from Bombay Pune Highway, the Division Bench fixed the market value in the range of Rs.18/- to Rs.23/- per sq.meter. The decision of the Division Bench has been expressly approved by the Apex Court in a recent decision in case of Shantadevi Ruparel Vs. Special Land Acquisition Officer decided on 6th March 2006. Therefore, it is obvious that the market value of the acquired lands cannot be less than Rs.18/- per sq.meter. The Reference Court has awarded market value at the rate of Rs.27/- per sq.meter. Considering the peculiar facts and circumstances of the case, the claimants will have to be permitted to withdraw 50% of the amount awarded subject to filing an undertaking before the Reference Court to redeposit the said amount with the appropriate rate of interest in the event of Appellant succeeding in the Appeal. For the balance amount, the claimants will have to furnish security to the satisfaction of the court.

5. Hence, Civil Applications are disposed of by passing the following order :

i) There will be interim relief in terms of prayer clause (b) subject to condition of the Applicant depositing the entire

amount due and payable under the impugned Awards within a period of twelve weeks from today with the Reference Court. If the amount is deposited, the Reference Court will permit the original Claimants to withdraw 50% of the amount subject to Claimants filing an undertaking to re-deposit the said amount with appropriate rate of interest in the event of success of the Applicant in the First Appeal.

ii) The Reference Court will permit the Claimants to withdraw the balance amount subject to the claimants furnishing adequate security. Before accepting the security, the Reference Court will hear the Applicant.

iii) If the claimants fail to furnish security within a period of six months from the date of deposit of the amount, the Reference Court will invest the said amount in fixed deposit initially for a period of five years and thereafter the fixed deposit shall be renewed on yearly basis till the final disposal of the Appeals.

Judge.